



state senator  
**Richard Bray**  
2006 LEGISLATIVE UPDATE

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# PROTECTING OUR CHILDREN

Indiana's children are our state's most precious assets. Sadly, nearly 67 percent of all reported sexual assault crimes are committed against children. In fact, 34 percent of sexual assault victims are under age 12. One in seven is under age 6. Despite efforts to protect children, there are still sexual predators who continue to prey on their innocence. This session, several bills were filed in an effort to close loopholes and strengthen Indiana's child protection laws.

The only way to help prevent predators from striking twice is to ensure their whereabouts are known by law enforcement agencies. This year, the General Assembly created legislation that requires convicted sexual predators to wear a GPS monitoring device at all times. New legislation also specifies that a principal residence is the residence where the offender spends the most time. If the sex offender plans to spend more than 72 hours away from his/her principal residence, the individual must notify both the local law enforcement agency and that of the city or county of visitation with a complete itinerary, including a return date.

Also with this newly enacted legislation, any person at least 18 years old who is convicted of child molesting for a second time may be placed on lifetime parole once his or her prison term is complete

and any individual convicted of two child molesting crimes in another state whose parole is transferred to Indiana is also required to be placed on lifetime parole. Legislators have also been successful in preventing courts from granting petitions for adoption or legal guardianship to a sexually violent predator or someone who commits child molestation with specific provisions.



Senator Bray discusses legislation with Senator Beverly Gard (R-Greenfield).

The Department of Corrections (DOC) has been given more authority over sex offenders by receiving control of the state sex offender registry. The DOC is now also required to register these offenders before being released from incarceration.

This legislation also prohibits a sexually violent predator from living within 1,000 feet of, or working at, any school, public park or program center; nor is a sexually violent predator permitted to live within one mile of the victim's residence.

Too often, sex offenders are released from prison, supposedly rehabilitated, only to repeat their crimes or commit worse offenses. Statistics show that sex offenders are four times more likely than non-sex offenders to be arrested for another sex crime after being discharged from prison. These initiatives can help provide protection for our most vulnerable Hoosiers — our children.



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## Major Moves

### INDIANA TO RECEIVE \$3.8 BILLION FOR TOLL ROAD

As you may be aware, Major Moves hinges on the lease of the Indiana Toll Road. Tolls have not increased in more than 20 years and the Indiana Toll Road no longer pays for itself. Additionally, the state has done a mediocre job of maintaining and managing the road.

Indiana has no ability to raise enough money to fund current road repair, much less for any significant construction projects. Due to greater fuel efficiency, drastic increases in maintenance expenses and construction costs for roads, as well as the fact that the gasoline tax is distributed several ways, the gasoline tax would have to be significantly raised to maintain our current highway system. The toll road lease will avoid the necessity of increasing the motor fuel taxes and will provide for extensive and badly needed highway construction.

Statewide Mobility Partners (SMP) submitted the winning bid of \$3.85 billion (the highest of four bids) to operate the Indiana Toll Road. This entity, which operates the Chicago Skyway (which connects with the west end of the Indiana toll road), agreed to make improvements estimated at more than \$4.4 billion over the term of the lease, including more than \$200 mil-

lion in the next three years alone. In comparison, if Indiana would operate the toll road, the state would only earn at best \$1.2 to \$1.4 billion over the next 75 years, and even this would require major rate increases. Incidentally, the state has not only made no profit on this investment, but has lost money 5 of the last 7

years. SMP will be responsible for all costs and expenses of the Indiana Toll Road, including operation, maintenance, resurfacing, reconstruction, tax liabilities, and the state police (who will remain under local control) who will patrol the toll road. I might add that SMP is leasing a 50-year-old highway, so maintenance costs will be significant. Under HEA 1008, \$150 million of the lease proceeds will be distributed to local communities for their transportation needs in 2006 and 2007. The counties I represent will receive the following amounts:

|                |              |
|----------------|--------------|
| Clay County    | \$ 1,030,776 |
| Johnson County | \$ 2,279,274 |
| Monroe County  | \$ 2,272,086 |
| Morgan County  | \$ 1,491,540 |
| Owen County    | \$ 855,246   |

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## Clean Indiana Energy II:

### Leading the Nation in Alternative Fuels

In the 2005 legislative session, our Clean Indiana Energy bill put Indiana at the forefront as a leader in new fuel technology. Currently, six ethanol plants have broken ground in Indiana with another 18 on the drawing board.

This is a growing industry. Other states are starting to see the benefits of investing in alternative fuels, which is why I supported Clean Indiana Energy II, Senate Enrolled Act 353, to ensure Indiana remains a leader in this area.

Ethanol and biodiesel production has a very positive impact on Indiana farmers. Indiana is the fifth largest state in corn production and fourth largest in soybeans. These are the two key dynamics associated with ethanol/biodiesel production. Currently, Indiana sends nearly 50 percent of corn and soybean productions out of state with no values added. This is the least profitable form of sale for farmers. It is estimated that farmers contracting with ethanol or biodiesel plants will gain an additional 5 cents to 10 cents per bushel.

Indiana is leading the nation with the most E85 fueling stations. Our goal is to double our current numbers for a total of 40 E85 fueling stations in the state of Indiana at the end of 2006.

SEA 353 also extends the current B20 retail tax credit through 2010 and requires the Indiana Economic Development Corporation to work with GPS software companies to include E85 fueling stations on GPS software.

This is amazing progress in such a short period of time. I am very proud of the fact that Indiana is leading the nation in this industry, and this legislation will only add to our advantage.





# Major Moves:

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HEA 1008 also creates the Next Generation Trust Fund, which will receive an initial deposit of \$500 million. Once the fund accumulates \$1 billion, the interest will be used to fund road and bridge construction projects around the state. This is yet another measure the General Assembly has taken to fund our future infrastructure needs.

There may be some concern about the idea of outsourcing the toll road to an international company. While I have never been enthusiastic about globalization, it has long been a fact of life. Nearly 900 international companies employ 130,000 Hoosiers today. A British company has run all aspects of the Indianapolis International Airport since 1995. International companies have invested over \$26 billion in Indiana. It is important to remember that the state is not "selling" this asset; Indiana will retain ownership of the property and road and can enforce the provisions of the lease agreement, including maintenance, even by forfeiture if necessary.

In its original form, House Bill 1008 would have given any governor the ability to create toll roads. I opposed this language and could not have supported the bill had this provision remained in the bill. The governor will not have the authority to create a toll road from Martinsville to Indianapolis, a section which is heavily used by commuters, under the bill. The Constitution gives the governor the authority to build I-69, but now he does not have the authority to create a toll road in the northern section. The governor is further prohibited from building I-69 through Perry Township. So, in all probability, the northern part of I-69 as selected by Gov. O'Bannon will have to be moved somewhere to the west.

In conclusion, I think Major Moves is a good plan for Indiana. It will give us the funding to complete long-delayed projects that we would otherwise be unable to do. In doing so, we will create thousands of jobs and improve our infrastructure as to be more attractive to economic development in the future. I could not have supported the bill without the amendments I mentioned that were made in the Senate, but given those improvements, I think this was a great opportunity for our state.

# Eminent Domain Law Protects Hoosier Property Owners

The right to own property is fundamental to the American way of life. We are all familiar with the concept of "life, liberty, and the pursuit of happiness" set out in our Declaration of Independence. However, at the time the Declaration was issued, many Americans listed such basic God-given human rights as "life, liberty and property."

Last summer, the U.S. Supreme Court issued a ruling that threatens the right to own property. In *Kelo v. City of New London*, the Supreme Court said that government may "take" private property for economic development. In other words, as then-Justice Sandra Day O'Connor wrote, "Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

The Supreme Court, however, left a loophole, saying legislatures may further restrict the use of eminent domain. This year, the General Assembly did exactly that.

Last summer, Indiana created an Eminent Domain Study Committee to look at Indiana's property rights laws to see how they could be improved. Many of their conclusions are now in the form of House Enrolled Act 1010,

which I helped write.

Perhaps most importantly, the new law requires the reason for using eminent domain be something that benefits the public, such as roads. Thus, eminent domain can be used for a legitimate government purpose — but not to increase a local government's tax base.



Senator Bray listens to reporters' questions while attending a news conference.

The new law does several other things, including placing time restrictions on eminent domain so that property owners are not left in limbo for years at a time; requiring just compensation for Hoosier property owners; and mandating good-faith negotiations between the condemner and the property owner.

It also provides for the landowner to recover attorney fees if the offer of the government is too low. It further allows for cost of the landowners relocation and lost business which may result from the loss of their location.

When used appropriately, eminent domain is an important tool that can help provide anything from roads to parks to schools for public use. HEA 1010 ensures that this tool is not abused at the expense of Hoosiers' right to own private property.

# Property Tax Relief : General Assembly Approves \$100 Million in Immediate Aid

Across the state, there is a strong desire to decrease local governments' reliance on property taxes, but there is a problem. In order to eliminate more than \$5 billion in revenue, we must find a new source of funding. This year, the Senate came up with a plan that would lower property taxes and replace that lost revenue with a more equitable tax. Unfortunately, the plan did not become law.

Statistics show that Indiana ranks among the worst in the nation in reliance on property taxes to fund local government. Indiana funds 89 percent of local government with property taxes. The national average is 78 percent and falling. That makes Indiana the 15th worst property tax state in the nation.

Also, Indiana is 14th worst in the nation in reliance upon property taxes in relation to sales and income tax. Property taxes provide 37.2 percent of income from "the big three" compared to national average of 32.4 percent and falling.

Property taxes, which are 100 percent local, fund local entities such as cities, counties, schools, libraries, and fire departments. It's no secret that the property tax is often unfair. It affects seniors, small business owners and farmers more than it affects people who can afford to pay the tax. In fact, there is no connection between the tax and the income produced by the property. The Senate plan would have permanently lowered property taxes with a more fair county option income tax.



Senator Bray listens to testimony during a committee hearing. Bray serves as Chairman of the Senate Judiciary Committee.

Under the plan, local elected officials in each county would take two votes. The first, an incremental income tax increase estimated at less than one percent, would stop the growth of property taxes and freeze them at current levels. The second, an additional one percent, would actually lower property taxes by an average of 20 percent or more.

Instead of passing this long-term relief, the General Assembly this year approved \$100 million in immediate relief. This money will lower property tax increases this year, giving taxpayers a quick break. I am pleased that we were able to help Hoosiers, but I am also hopeful that long-term relief will come in the very near future.

This solution or a similar one would provide real, tangible, long-term property tax relief to Hoosiers. I look forward to supporting a similar plan in the future.

# Two Bills Reinforce Second Amendment

"The people shall have a right to bear arms, for the defense of themselves and the State." Article 1, Section 32 of the Indiana Constitution grants us the freedom to own firearms and store them in our homes.

I have always been a firm supporter of our Second Amendment rights, and there are two bills in the General Assembly that would protect law-abiding gun owners.

The "Stand Your Ground" law, House Enrolled Act 1028, aims to protect Hoosiers who are protecting themselves. The bill allows any person to use deadly force against an intruder to the person's home or vehicle. Current law says that the intruder must have intent to cause death or bodily harm, but I believe that when someone breaks into your private property, you do not have the time to

determine their exact intent.

Stand Your Ground also clarifies Indiana's law which tradition held by case law that if you were in a place you had a right to be and you were not the aggressor, you did not have to retreat before you had a right to defend yourself to whatever extent necessary, such as deadly force. This provision is now in statute.

Senate Enrolled Act 54 attempts to simplify the handgun licensing process. Currently, everyone with a handgun license must have their permit updated and be fingerprinted every four years — even people who have had such a license all of their adult life.

This bill would allow the Superintendent of the Indiana State Police to establish an electronic renewal service and keep one set of fingerprints on file when this system is imple-

mented. In order to keep the cost of this program low, it will rely on federal funding as opposed to taking more from the already strapped state budget. This bill would also allow citizens to apply for lifetime licenses.

The Indiana State Police issues about 80,000 gun permits per year, and these measures would reduce that number and make the process much more efficient. Safety is still a top priority and law enforcement officers would continue to revoke licenses as necessary.

These small, sensible changes will be a great improvement of the current system and make the licensing procedure much more efficient. There is no reason to punish those law-abiding citizens who are simply exercising their Second Amendment rights.